

SAO 440 (Rev. 8/01) Summons in a Civil Action

2007-021130

UNITED STATES DISTRICT COURT

Southern

District of

New York

BRYANT PERALTE, by his m/n/g
RAMONA GARCIA & RAMONA GARCIA, ind.

SUMMONS IN A CIVIL ACTION

V.

THE CITY OF NEW YORK & POLICE OFFICER
JOHN DOE 1-10

CASE NUMBER:

07 CV

6148

TO: (Name and address of Defendant)

THE CITY OF NEW YORK 100 Church Street, NY, NY 10007

POLICE OFFICER JOHN DOE 1-10 1 Police Plaza, NY, NY 10007

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

MICHAEL COLIHAN 44 Court Street Suite 911 Brooklyn, NY 11201
(718) 488-7788

an answer to the complaint which is served on you with this summons, within twenty days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON

JUN 29 2007

CLERK

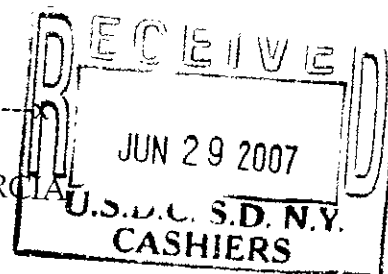
DATE

(By) DEPUTY CLERK

07 CV 6148

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BRYANT PERALTE, an infant
by his m/n/g RAMONA GARCIA & RAMONA GARCIA
individually



Plaintiff

-against-

THE CITY OF NEW YORK,
POLICE OFFICERS JOHN ROE 1-10

COMPLAINT
PLAINTIFFS DEMAND
TRIAL BY JURY

Defendants

-----X
AS AND FOR A FIRST CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF
BRYANT PERALTE

1. This is a civil action for damages brought pursuant to redress the deprivation by defendants of the rights secured to plaintiff under the Constitution and laws of the United States and State of New York. The defendants, upon information & belief, without a warrant and without probable cause, unlawfully entered the home of, assaulted, arrested and falsely imprisoned the plaintiffs.

2. That the jurisdiction of this Court is invoked under the provisions of Section 1331 & 1383 of Title 28 and Sections 1983 & 1988 of Title 42 of the United States Code . Plaintiff further invokes the pendant jurisdiction of this Court to consider claims arising under state law. The amount in controversy exceeds \$75,000.00 excluding costs and attorney's fees.

3. That at all times hereinafter mentioned, the plaintiff RAMONA GARCIA was and still is a resident of the City & State of New York.

4. That at all times hereinafter mentioned, the plaintiff RAMONA GARCIA was and still is the mother & natural guardian of the plaintiff BRYANT PERALTE.

5. Upon information and belief the defendant THE CITY OF NEW YORK was and is a municipal corporation organized and existing under the laws of the City and State of New York.

6. That the defendants POLICE OFFICER JOHN DOE were & are agents, servants and employees of the defendant THE CITY OF NEW YORK.

7. That the plaintiff did on or about the fourth day of January, 2007 serve upon the defendant THE CITY OF NEW YORK a Notice of Claim which conformed to the requirements of Section 50 (e) of the General Municipal Law.

8. That more than thirty days have elapsed since the service of said Notice of Claim upon the defendant and the defendant has refused to compromise this action.

9. That more than ninety days have elapsed since the service of said Notice of Claim and the plaintiff has otherwise complied with all the conditions precedent to the commencement of this action.

10. That on or about the 28th day of December, 2006 the plaintiff BRYANT PERALTE was present at & near his home at 55-15 99th Street, Corona, County of Queens, City & State of New York.

11. That while at the aforesaid time and place the plaintiff was unlawfully and without just cause, approached, accosted, detained & arrested by the aforementioned officers of THE NEW YORK CITY POLICE DEPARTMENT who were agents, servants and employees of the defendant THE CITY OF NEW YORK who were acting under color of law during the aforesaid transactions.

12. That by reason of the foregoing the plaintiff suffered serious and severe psychological injuries some of which, upon information & belief are permanent in nature.

13. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A SECOND CAUSE OF ACTION ON
BEHALF OF THE PLAINTIFF BRYANT PERALTE

14. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "13" with the same force and effect as if more fully set forth at length herein.

15. That after the aforementioned accosting and assault of the plaintiff by the defendants, the plaintiff was falsely arrested & detained by the aforementioned officers of the CITY OF NEW YORK, including but not limited to the individually named officers, who were agents, servants & employees of the defendant THE CITY OF NEW YORK, for a period of approximately two hours.

16. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A THIRD CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF
BRYANT PERALTE

17. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "13" with the same force and effect as if more fully set forth at length herein.

18. In the manner as aforesaid, each of the defendants, jointly & severally, acted maliciously, willfully and wantonly, and outside the scope of his

jurisdiction, although under color of law, and violated the following rights of the plaintiff; to be free from unreasonable search & seizure, from warrantless search & seizure, from use of excessive force, assault & battery, summary punishment without trial & due process of law.

19. Defendants, its agents servants and employees, by their conduct herein alleged, intentionally, willfully and without justification, and under color of law did deprive the plaintiff of his rights, privileges and immunities secured to him by the Constitution and the laws of the United States, and by 42 U.S.C. Sections 1983 & 1988 and by the statutes and laws of the state of New York which are invoked under the pendant jurisdiction of this Court.

20. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A FOURTH CAUSE OF ACTION
ON BEHALF OF THE PLAINTIFF BRYANT PERALTE

21. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "13" with the same force and effect as if more fully set forth at length herein.

22. The defendant THE CITY OF NEW YORK was careless reckless and negligent in the selection, investigation, hiring, training, supervision and direction of their employees, and in particular, the individually named defendants.

23. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A FIFTH CAUSE OF ACTION
ON BEHALF OF THE PLAINTIFF RAMONA GARCIA

24. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "13", with the same force and effect as if more fully set forth at length herein.

25. That the plaintiff did on or about the fourth day of January, 2007, serve upon the defendant THE CITY OF NEW YORK a Notice of Claim which conformed to the requirements of Section 50 (e) of the General Municipal Law.

26. That on or about the 28th day of December, 2006 the plaintiff was present inside her home at 55-15 99th Street, Corona, County of Queens, City & State of New York.

27. That while at the aforesaid time and place the plaintiff was unlawfully and without just cause, approached, accosted, and arrested by the aforementioned officers of THE NEW YORK CITY POLICE DEPARTMENT who were agents, servants and employees of the defendant THE CITY OF NEW YORK who were acting under color of law during the aforesaid transactions.

28. That by reason of the foregoing the plaintiff suffered serious and severe physical & psychological injuries some of which, upon information & belief are permanent in nature.

29. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A SIXTH CAUSE OF ACTION ON BEHALF OF
THE PLAINTIFF RAMONA GARCIA

30. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "13," with the same force and effect as if more fully set forth at length herein.

31. That after the aforementioned accosting and assault of the plaintiff by the defendants, the plaintiff was falsely arrested & imprisoned by the aforementioned officers of the CITY OF NEW YORK, including but not limited to the individually named officers were agents, servants & employees of the defendant THE CITY OF NEW YORK, for a period of approximately three hours.

32. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A SEVENTH CAUSE OF ACTION ON BEHALF OF
THE PLAINTIFF RAMONA GARCIA

33. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "13", with the same force and effect as if more fully set forth at length herein.

34. In the manner as aforesaid, each of the defendants, jointly & severally, acted maliciously, willfully and wantonly, and outside the scope of his jurisdiction, although under color of law, and violated the following rights of the plaintiff; to be free from unreasonable search & seizure, from warrantless search & seizure, from use of excessive force, assault & battery, summary punishment without trial & due process of law.

35. Defendants, its agents servants and employees, by their conduct herein alleged, intentionally, willfully and without justification, and under color of law did deprive the plaintiff of his rights, privileges and immunities secured to him by the Constitution and the laws of the United States, and by 42 U.S.C. Sections 1983 & 1988 and by the statutes and laws of the state of New York which are invoked under the pendant jurisdiction of this Court.

36. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR AN EIGHTH CAUSE OF ACTION ON
BEHALF OF THE PLAINTIFF RAMONA GARCIA

37. . Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "13" with the same force and effect as if more fully set forth at length herein.

38. The defendant THE CITY OF NEW YORK was careless reckless and negligent in the selection, investigation, hiring, training, supervision and direction of their employees, and in particular, the individually named defendants.

39. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

AS AND FOR A NINTH CAUSE OF ACTION ON
BEHALF OF THE PLAINTIFF RAMONA GARCIA

40. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "24" with the same force and effect as if more fully set forth at length herein.

41. That RAMONA GARCIA is the mother of BRYANT PERALTE & as such is entitled to his society & services.

42. That by reason of the foregoing the plaintiff RAMONA GARCIA was deprived to the society & services of her son BRYANT PERALTE.

43. That by reason of the foregoing RAMONA GARCIA has suffered damage & injury in the sum of ONE HUNDRED THOUSAND DOLLARS.

AS AND FOR A TENTH CAUSE OF ACTION ON
BEHALF OF THE PLAINTIFF RAMONA GARCIA
AND BRYANT PERALTE

44. Plaintiff repeats, realleges and reiterates each and every allegation of the complaint in the paragraphs numbered "1" through "43" with the same force and effect as if more fully set forth at length herein.

45. That the injuries & damages as aforesaid were the result of the customs & practices of the defendant the CITY OF NEW YORK, its agents, servants & employees.

46. That by reason of the foregoing the plaintiffs have suffered damage & injury in the sum of ONE MILLION DOLLARS.

WHEREFORE, the plaintiff respectfully preys to the court for judgment upon each cause of action as follows:

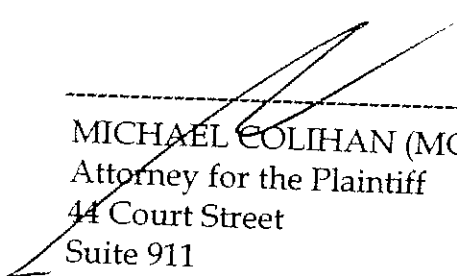
a. Compensatory damages in an amount which this Court shall consider to be just and fair:

b. Punitive and exemplary damages in an amount which this Court shall consider to be just & fair;

c. Attorney's fees in an amount which this Court shall consider just & fair;

d. Together with the costs and disbursements of this action and such other and further relief which this Court may seem just & proper.

DATED: BROOKLYN, NY
June 26, 2007



MICHAEL COLIHAN (MC-0826)
Attorney for the Plaintiff
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Brooklyn, NY 11201
(718) 488-7788